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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re Applications of)	MM DOCKET NO. 97-128
)	
MARTIN W. HOFFMAN,)	
Trustee-in-Bankruptcy for Astroline)	File No. BRCT-881201LG
Communications Company Limited)	
Partnership)	
)	
For Renewal of License of)	
Station WHCT-TV, Hartford, Connecticut)	
)	
SHURBERG BROADCASTING OF HARTFORD)	File No. BPCT-831202KF
)	
For Construction Permit for a New)	
Television Station to Operate on)	
Channel 18, Hartford, Connecticut)	
TO: The Honorable John M. Frysiak		
Administrative Law Judge		

OPPOSITION TO MOTION FOR EXTENSION OF TIME

1. Alan Shurberg d/b/a Shurberg Broadcasting of Hartford ("SBH") hereby opposes the Motion for Extension of Time submitted jointly by Martin W. Hoffman, Richard P. Ramirez and Two If By Sea Broadcasting Corporation (collectively, "the Movants") in the above-captioned proceeding. As set forth below, the Movants have failed to demonstrate any good cause for any extension of the deadline for the filing of proposed findings of fact and conclusions of law herein.

2. The sole considerations offered in support of the requested extension are: (a) "for much of October," counsel for two of the three Movants "were out of town on business"; and (b) the Movants plan to file a single set of joint findings, which will "require

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coordination"; and (c) the extension would "alleviate coordination problems" relating to the Thanksgiving week "travel plans" of the Movants' clients. None of these factors in any way justifies any extension at all.

3. Taking the cited considerations in reverse order, why the "travel plans" of "Movants' clients" might necessitate some extension of the deadline is difficult to fathom. The deadline for findings was set some six weeks ago, at which point everyone was aware that the findings would be due two days before Thanksgiving. Presumably, any "travel plans" which were to be made could and should have been made with that particular deadline in mind. The Motion does not explain whose "travel plans" are involved, why those plans were (apparently) not made with due consideration to the established deadline, or what "coordination problems" might be involved.

4. With respect to the fact that the Movants may elect to file joint findings, SBH is constrained to note that it would have been shocking had the Movants chosen *not* to file joint findings. After all, they submitted a joint direct case, and even though the Presiding Judge declined to order the Movants to speak through a single representative at the hearing, the Movants did, as a practical matter, do just that. In other words, the Movants have plainly been acting "jointly" since before the start of the hearing. Any need to "coordinate" anything should have been worked out long ago, and the Movants cannot legitimately claim that any such need justifies an extension of the deadline here.

5. As for the travel schedule of counsel for two of the Movants, the fact is that (as the Movants themselves note) their travel schedule was raised at the time the deadline was set, and that schedule was taken into account at that time. To the extent that their travel schedule might have affected their ability to complete the findings, they had the opportunity

to raise that consideration, they did in fact raise it, and as far as SBH could tell, the current deadline was adopted in view of precisely that factor. That being the case, that same factor cannot now be said to justify an extension.

6. This is especially so for several reasons. First, while the Motion indicates that counsel for two of the three Movants were out of town "for much of October," it says nothing about counsel for the third Movant, Mr. Hoffman. Mr. Hoffman is the only Movant who has any burdens in this case -- indeed, he bears the ultimate burden of proof. As a result, Mr. Hoffman would ordinarily be presumed to be taking all necessary steps to advance the strongest possible case. The fact that Mr. Hoffman's counsel was apparently *not* out of town in October, then, would suggest that the absence of counsel for the other two Movants should not have affected the progress of any joint findings which they might be preparing.

7. Additionally, SBH notes that the Movants are represented by three separate law firms whose aggregate attorney rosters number in excess of 225 (according to a cursory review of their respective listings in Martindale-Hubbell). It is impossible to believe that *all* of those 225 or so attorneys were "out of town on business" for "much of October" and therefore could not attend to a pleading subject to a reasonable deadline adopted with the concurrence of all of the Movants.

8. Moreover, it is also important to observe that the record of this case consists exclusively of materials which were all within the control of one or another of the Movants. That is, no part of this record should be new or unforeseen to the Movants.

9. As a standard practice, undersigned counsel does not oppose extension requests which have any reasonable basis. In my view, the instant request falls short of that standard.

I currently anticipate that I will be able to complete SBH's findings by the November 24 deadline, notwithstanding the following considerations:

(a) unlike the law firms representing the three Movants, the undersigned's firm consists of three attorneys, one of whom has been on medical leave since April as she fights bladder cancer. One other attorney has been absent from the office because of the birth of a grandchild, which necessitated a one-week trip to Colorado, and a recent cardiac episode, which forced him to the hospital for tests which led to an angiogram and angioplasty and a consequent absence from the office of a week or more. In other words, undersigned counsel does not have the luxury of multiple associate attorneys handy to assist in meeting deadlines.

(b) while undersigned counsel was not out of town on business in October, he has been (and will continue, for the foreseeable future, to be) out of town on a number of trips to Rhode Island to assist his mother in the wake of the unexpected death of his father on October 3.^{1/}

(c) notwithstanding the lack of other attorneys and the obvious distractions attendant to resolving the affairs of a deceased family member, undersigned counsel has managed to maintain his workload, including not only making substantial progress on the findings in this case, but also: filing an appellant's brief in the U.S. Court of Appeals; preparing for an oral argument before that court in a case in which undersigned counsel

^{1/} The Movants' motion for extension was hand-served on undersigned counsel at approximately 4:30 p.m. on November 12. The instant opposition would have been filed the following day, but for the fact that undersigned counsel had made previous plans to fly to Rhode Island on the morning of November 13 to attend to matters relating to his father's estate. This opposition is accordingly being filed on the next business day following that trip.

represents an intervenor; attending to multiple other professional responsibilities arising not only in relation to my own clients, but also in relation to my colleagues' clients (Ms. Farhat's in particular, due to the extent of her medical leave).

As a result of these various considerations, undersigned counsel cannot be sympathetic to the sparse showing offered by the Movants.


10. In addition to the foregoing, the proposed extension would substantially inconvenience undersigned counsel's own scheduled obligations for the rest of the year. Already scheduled are a reply brief in the Court of Appeals (due December 17), an appellant's brief in a complicated case in the same court (due December 21), and a joint appendix in the same court (due December 24). There are also miscellaneous other projects (including rule making comments and other pleadings) which are currently due to be filed during the period between November 24 and December 31, not to mention the routine matters which arise without notice on a daily basis. Because of these various obligations -- and it should be noted that, unlike the findings deadline herein, which was adopted with full consideration of the schedules of the parties, Court of Appeals deadlines are imposed without any regard for such considerations -- the proposed extension would be very disruptive for undersigned counsel's schedule.

11. The Movants also claim that they have supposedly "incurred difficulty in preparing their Joint Findings" because of SBH's "failure to paginate [its] exhibits." They fail to explain exactly what "difficulties" they have "incurred." SBH acknowledges that a very small handful of SBH's exhibits were not paginated in one or another readily useful manner. But *all* exhibits were separately tabbed, marked with dividers, identified in detail and comprehensively indexed for ease of reference. This is in stark contrast to the Movants'

exhibits -- and particularly the several hundred pages of exhibits exchanged after the hearing started, *i.e.*, weeks after the deadline for exchange -- which were not tabbed, for the most part not divided, and neither indexed nor otherwise individually identified in any respect. It is a sign of the complete lack of justification for any extension that the Movants are reduced to claiming that a lack of pagination of some exhibits has hindered them in any way.

12. The record of this case is relatively compact and manageable. This case has been already been pending for far too long. Those alone are good reasons to maintain the existing schedule. The Movants have provided no good reason to alter that schedule. Accordingly, SBH opposes the Motion for Extension of Time.

Respectfully submitted,


/s/ Harry F. Cole
Harry F. Cole

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November 16, 1998

CERTIFICATE OF SERVICE

I hereby certify that, on this 16th day of November 1998, I caused copies of the foregoing "Opposition to Motion for Extension of Time" to be placed in the U.S. Postal Service, first class postage prepaid, or hand delivered (as indicated below), addressed to the following:

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